

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT CINCINNATI**

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 1:15-cr-113  
Also 1:19-cv-341

- VS -

District Judge Susan J. Dlott  
Magistrate Judge Michael R. Merz

LISTON WATSON,

Defendant. :

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**REPORT AND RECOMMENDATIONS ON SECOND MOTION TO  
AMEND THE JUDGMENT**

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This action on a Motion to Vacate 28 U.S.C. § 2255 is before the Court on Defendant's *pro se* "Motion for Reconsideration to Amend the Judgment in Need to Prevent Manifest of Injustice" under Fed.R.Civ.P. 59(e)(ECF No. 137). As a post-judgment motion, it is deemed referred to the Magistrate Judge under 28 U.S.C. § 636(b)(3) for report and recommendations.

Judgment was entered in this case on June 10, 2020 (ECF No. 126). Watson's instant Motion was postmarked August 21, 2020 (See PageID 850). Fed.R.Civ.P. 59(e) provides that a motion to alter or amend a judgment must be filed not later than twenty-eight days after judgment; Fed.R.Civ.P. 6(b)(2) prohibits extending the time to file a Rule 59(e) motion. Because Watson's instant Motion was filed by depositing it in the mail seventy-two days after judgment, it must be denied as untimely.

Moreover, the Motion is without merit. Watson attaches an August 10, 2020, letter from Attorney William Gallagher who states he did not represent Watson during the plea negotiations or during entry of the Plea Agreement in this case. Even though the letter is not sworn, the Court accepts its veracity based on Mr. Gallagher's standing as an officer of this Court. But it is submitted far too late – the evidentiary hearing in this case was held in March. And it is immaterial. The Court has understood all along that Mr. Gallagher substituted for Attorney Lockard after the plea was accepted. The Plea Agreement, which included a sentence of 360 months, was negotiated by Ms. Lockard. The determinative point made in the Reports and Recommendations is that neither Mr. Gallagher nor Mr. Watson objected when Judge Beckwith imposed a sentence of 360 months for the weapons convictions plus one day for the bank robbery convictions, with credit for one day served.

The instant Motion should be denied as untimely and without merit.

August 25, 2020.

*s/ Michael R. Merz*  
United States Magistrate Judge

#### **NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Because this document is being served by mail, three days are added under Fed.R.Civ.P. 6. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal.